

§ 111.75 Appeal from the Secretary's decision.

An appeal from the order of the Secretary of the Treasury suspending or revoking a license or permit or assessing a monetary penalty in lieu thereof may be taken in accordance with the provisions of section 641(e), Tariff Act of 1930, as amended (19 U.S.C. 1641(e)). The commencement of such proceedings shall, unless specifically ordered by the Court, operate as a stay of the Secretary's order.

[T.D. 86-161, 51 FR 30345, Aug. 26, 1986]

§ 111.76 Reopening the case.

(a) *Grounds for reopening.* Any person whose license has been suspended or revoked may make written application in duplicate to the Commissioner to have the order of suspension or revocation set aside or modified upon the ground of newly discovered evidence or that important evidence is now available which could not be produced at the original hearing by the exercise of due diligence. The application must set forth specifically the precise character of the evidence to be relied upon and shall state the reasons why the applicant was unable to produce it when the original charges were heard.

(b) *Procedure.* The Commissioner shall forward the application with his recommendation to the Secretary of the Treasury. The Secretary may grant or deny the application for reopening of the case and may order the taking of additional testimony before the Commissioner. The Commissioner shall notify the applicant of the Secretary's decision. If the Secretary grants the application and orders a hearing, the Commissioner shall set a time and place for such hearing and give due notice thereof to the applicant. The procedure governing the additional hearing and recommended decision of the Commissioner shall be the same as that governing the original proceeding.

[T.D. 75-58, 40 FR 11563, Mar. 12, 1975, as amended by T.D. 86-161, 51 FR 30345, Aug. 26, 1986]

§ 111.77 Notice of reinstatement.

If the Secretary of the Treasury issues an order vacating or modifying the prior order of suspension or revoca-

tion, the Commissioner will notify the broker and publish a notice of the new order in the FEDERAL REGISTER and the Customs Bulletin.

§ 111.78 Reprimands.

If a broker fails to observe and fulfill the duties and responsibilities of a broker as set forth in this part but such failure is not sufficiently serious to warrant initiation of suspension or revocation proceedings Headquarters or the port director, with the approval of Headquarters, may serve the broker with a written reprimand. Such reprimand and the facts on which it is based, may be considered in connection with any future disciplinary proceeding that may be instituted.

[T.D. 70-134, 35 FR 9254, June 13, 1970, as amended by T.D. 77-242, 42 FR 54284, Oct. 5, 1977]

§ 111.79 Employment of broker who has lost license.

Five years after the revocation or cancellation "with prejudice" of a license, the ex-broker may petition the Commissioner for authorization to accept employment with or to assist a licensed broker. Such petition shall not be approved unless the Commissioner is satisfied that the petitioner has refrained from all activities in any way violative of the provisions of § 111.42 and that petitioner's conduct has been exemplary during the period of disability. The Commissioner shall also give consideration to the gravity of the misconduct which gave rise to the petitioner's disability. In any case in which such misconduct leads to pecuniary loss to the Government or to any person, the Commissioner shall also take into account whether the petitioner has made reimbursement for the losses incurred.

§ 111.80 Saving provision.

Any proceeding for revocation or suspension of a license instituted prior to October 30, 1984, shall be governed by the provisions of 19 CFR part 111 which were in force at the time the proceeding was instituted. For the purposes of this provision, the commencement of preliminary proceedings shall

§ 111.81

be considered the institution of proceedings for revocation or suspension, if preliminary proceedings were held.

[T.D. 86-161, 51 FR 30345, Aug. 26, 1986]

§ 111.81 Settlement and compromise.

The Commissioner, with the approval of the Secretary of the Treasury, may settle and compromise any disciplinary proceeding which has been instituted under this Part according to the terms and conditions agreed to by the parties, including but not limited to the reduction of any proposed suspension or revocation to a monetary penalty.

[T.D. 86-161, 51 FR 30345, Aug. 26, 1986]

Subpart E—Monetary Penalty

SOURCE: T.D. 86-161, 51 FR 30345, Aug. 26, 1986, unless otherwise noted.

§ 111.91 Grounds for imposition of a monetary penalty; maximum penalty.

The Customs Service may assess a monetary penalty or penalties as follows: (a) An amount not to exceed an aggregate of \$30,000 for any of the reasons set forth in § 111.53, except for those listed in paragraph (b)(3) of that section; or (b) An amount not to exceed an aggregate of \$30,000 for all violations and \$10,000 for each violation of § 111.4.

§ 111.92 Notice.

The Customs Service shall issue a written notice which advises the broker or other person of the allegations or complaints against him and explains that the person has a right to respond to the allegations or complaints in writing within 30 days of the date of mailing of the notice. The port director has discretion to provide additional time for good cause. Any notice, the basis of which is an alleged violation of § 111.53(b) or which exceeds an aggregate of \$10,000 for all alleged violations, shall be referred to the Director, International Trade Compliance Division, Customs Headquarters, for approval before it is issued.

[T.D. 70-134, 35 FR 9254, June 13, 1970, as amended by T.D. 91-77, 56 FR 46115, Sept. 10, 1991]

19 CFR Ch. I (4-1-99 Edition)

§ 111.93 Application for relief.

The person shall follow the procedures set forth in part 171 of this chapter in filing an application for relief.

§ 111.94 Decision of appropriate Customs officer.

The Customs Service shall follow the procedures set forth in part 171 of this chapter in considering the application for relief. After the appropriate Customs officers have considered the allegations or complaints and any timely response made, a written decision shall be issued which sets forth the final determination and the findings of fact and conclusions of law on which the determination is based. If the final determination is that the person is liable for a monetary penalty, the person shall pay, or make arrangements for payment, within 60 days of the date of the final determination. If the monetary penalty is not paid or arrangements made for payment within the time limitations, the Customs Service shall refer the matter to the Department of Justice for institution of appropriate judicial proceedings.

§ 111.95 Supplemental petition for relief.

A final determination of the Fines, Penalties, and Forfeitures Officer in excess of \$1,000 may be the subject of a supplemental petition for relief under the provisions of § 171.33 of this Chapter. A final determination of \$1,000 or less is a final decision and is not subject to further administrative review.

[T.D. 86-161, 51 FR 30345, Aug. 26, 1986; 51 FR 31760, Sept. 5, 1986, as amended by T.D. 99-27, 64 FR 13675, Mar. 22, 1999]

§ 111.96 Fees.

(a) *License fee; fingerprint fee.* Each applicant for a broker's license pursuant to § 111.12, or by special examination pursuant to § 111.13(c), shall be charged a fee of \$300 to defray the costs to Customs for the preparation and administration of the examination and other expenses in processing the application. If an applicant either fails to appear for an examination without giving notice at least 24 hours before the examination, or does not pass the examination required by § 111.11(a)(4), \$100